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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,489	06/30/2003	Lloyd Frink	2031.3	3330

7590 01/17/2006

Law Offices of Albert S. Michalik, PLLC
Suite 193
704-228th Avenue NE
Sammamish, WA 98007

EXAMINER

COUSO, JOSE L

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,489

Applicant(s)

FRINK ET AL.

Examiner

Jose L. Couso

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005 and 22 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/3/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2621

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 8 and 10 of U.S. Patent No. 6,594,390. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed towards the same subject matter.

A comparison of the claims follows.

Claim 1 of the present application recites: In a computer system, a method comprising: (claim 1 of U.S. Patent No. 6,594,390 recites: A computer-implemented method, comprising:); Claim 1 of the present application recites: receiving pen input in an input area of digitizer (claim 1 of U.S. Patent No. 6,594,390 recites: receiving handwriting comprising pen input at a manager program); Claim 1 of the present application recites: processing, in a software program that is running while an application program is awaiting input, the pen input into a key event (claim 1 of U.S. Patent No. 6,594,390 recites: converting the pen input into a key event); Claim 1 of the present application recites: and providing the key event from the software program to

the application program, the application program separate from the software program such that the application program receives the key event without processing the pen input (claim 1 of U.S. Patent No. 6,594,390 recites: and feeding the key event from the manager program to an application, the manage program separate from the application such that the application need not directly receive and process the handwriting).

Claim 2 of the present application recites: wherein the key event corresponds to a character (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a character).

Claim 3 of the present application recites: wherein the key event corresponds to a gesture that is not an alphanumeric character (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a command, a command being an obvious gesture).

Claim 4 of the present application recites: wherein the pen input comprises a single stroke (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a character, it is obvious that certain characters comprise a single stroke).

Claim 5 of the present application recites: wherein the pen input comprises at least two strokes (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a character, it is obvious that certain characters comprise at least two strokes).

Claim 6 of the present application recites: wherein processing the pen input includes calling a recognizer (claim 10 of U.S. Patent No. 6,594,390 recites: wherein converting the pen input into a key event includes calling a recognizer).

Claim 7 of the present application recites: detecting the end of the pen input (claim 2 of U.S. Patent No. 6,594,390 recites: wherein receiving handwriting includes detecting the end of the pen input).

Claim 8 of the present application recites: wherein detecting the end of the pen input includes detecting a pen up event (claim 3 of U.S. Patent No. 6,594,390 recites: wherein detecting the end of the pen input includes detecting a pen up event).

Claim 9 of the present application recites: wherein detecting the end of the pen input includes detecting that pen input has stopped for a period of time (claim 4 of U.S. Patent No. 6,594,390 recites: wherein detecting the end of the pen input includes detecting that pen input has stopped for a period of time).

Claim 10 of the present application recites: wherein detecting the end of the pen input includes detecting a particular pen action (claim 8 of U.S. Patent No. 6,594,390 recites: wherein detecting the end of the pen input includes detecting a particular pen action).

Claim 11 of the present application recites: A computer-readable medium having computer-executable instructions which even when executed performs steps, comprising: (claim 1 of U.S. Patent No. 6,594,390 recites: A computer-implemented method, comprising:); Claim 1 of the present application recites: handling pen input data in a first software program to receive a recognition result in the form of a key event

Art Unit: 2621

(claim 1 of U.S. Patent No. 6,594,390 recites: receiving handwriting comprising pen input at a manager program; converting the pen input into a key event); Claim 1 of the present application recites: and providing the key event to a first software program to a second software program, the second software application program separate from the first software program such that the second program is provided with the key event without having handled the pen input (claim 1 of U.S. Patent No. 6,594,390 recites: and feeding the key event from the manager program to an application, the manager program separate from the application such that the application need not directly receive and process the handwriting).

Claim 12 of the present application recites: wherein the key event corresponds to a gesture (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a command, a command being an obvious gesture).

Claim 13 of the present application recites: wherein the pen input comprises a single stroke (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a character, it is obvious that certain characters comprise a single stroke).

Claim 14 of the present application recites: wherein the pen input comprises at least two strokes (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a character, it is obvious that certain characters comprise at least two strokes).

Claim 15 of the present application recites: In a computing environment, a system, comprising: (claim 1 of U.S. Patent No. 6,594,390 recites: A computer-

implemented method, comprising:); Claim 1 of the present application recites: means for handling pen input data in a first software program to receive a recognition result in the form of a key event (claim 1 of U.S. Patent No. 6,594,390 recites: receiving handwriting comprising pen input at a manager program; converting the pen input into a key event); Claim 1 of the present application recites: and means for providing the key event to a first software program to a second software program, the second software application program separate from the first software program such that the second program is provided with the key event without having handled the pen input (claim 1 of U.S. Patent No. 6,594,390 recites: and feeding the key event from the manager program to an application, the manager program separate from the application such that the application need not directly receive and process the handwriting).

Claim 16 of the present application recites: wherein the key event corresponds to a gesture (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a command, a command being an obvious gesture).

Claim 17 of the present application recites: wherein the pen input comprises a single stroke (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a character, it is obvious that certain characters comprise a single stroke).

Claim 18 of the present application recites: wherein the pen input comprises at least two strokes (claim 8 of U.S. Patent No. 6,594,390 recites: wherein the key event corresponds to a character, it is obvious that certain characters comprise at least two strokes).

Claim 19 of the present application recites: detecting the end of the pen input (claim 2 of U.S. Patent No. 6,594,390 recites: wherein receiving handwriting includes detecting the end of the pen input).

Claim 20 of the present application recites: wherein the means for detecting the end of the pen input includes at least one of: means for detecting a pen up event (claim 3 of U.S. Patent No. 6,594,390 recites: wherein detecting the end of the pen input includes detecting a pen up event), means for detecting the end of the pen input includes detecting that pen input has stopped for a period of time (claim 4 of U.S. Patent No. 6,594,390 recites: wherein detecting the end of the pen input includes detecting that pen input has stopped for a period of time), and means for detecting the end of the pen input includes detecting a particular pen action (claim 8 of U.S. Patent No. 6,594,390 recites: wherein detecting the end of the pen input includes detecting a particular pen action).

3. Applicant's arguments filed November 21, 2005 have been fully considered but they are not persuasive.

Applicant's arguments on page 7, line 10 through page 9, line 10 have been thoroughly reviewed and are persuasive, the examiner is therefore withdrawing the Sklarew (U.S. Patent No. 4,972,496) prior art rejection.

The examiner has thoroughly reviewed applicant's arguments on page 7, lines 7-9, specifically applicant's statement that "applicants hereby submit a terminal disclaimer" but a terminal disclaimer has indeed not been submitted. The examiner

firmly believes the outstanding obviousness-type double patenting rejection is reasonable and proper and is therefore maintaining the rejection.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

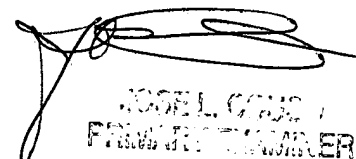
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jose L. Couso whose telephone number is (571) 272-7388. The examiner can normally be reached on Monday through Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso, can be reached on (703) 272-7695. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the USPTO contact Center whose telephone number is (703) 308-4357.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jlc
January 10, 2006



JOSE L. COUSO
PATENT EXAMINER